

MINUTES

COURT OF APPEAL  
STATE OF CALIFORNIA  
FIRST APPELLATE DISTRICT

Monday, December 1, 1997

DIVISION ONE

**A077895--The People v. Carnell D. Garner.**

The judgment is affirmed. Swager, J. We concur: Stein, Acting P.J.,  
Dossee, J. (Not for Publication.)

DIVISION TWO

**A072300--The People v. Alireza Shakoury Tabrizie.**

The judgment is reversed. Lambden, J. We concur: Kline, P.J., Ruvolo, J.  
(Not for Publication.)

**A075673--The People v. Preston Lee Reed, Jr.**

By The Court: The petition for rehearing is denied. Kline, P.J.

**A077906--The People v. Michael S. Costa.**

The order of revocation and the sentence are affirmed. Haerle, J. We  
concur: Kline, P.J., Ruvolo, J. (Not for Publication.)

Monday, December 1, 1997 (continued)

**A078382--The People v. Jim Eugene Killian.**

The judgment is affirmed. Kline, P.J. We concur: Haerle, J., Ruvolo, J.  
(Not for Publication.)

**A077031--The People v. Unree Harrell.**

The judgment is affirmed. Peterson, P.J. We concur: Haning, J., Jones, J.  
(Not for Publication.)

MINUTES

COURT OF APPEAL  
STATE OF CALIFORNIA  
FIRST APPELLATE DISTRICT

Tuesday, December 2, 1997

DIVISION TWO

**A071683--Rowena Wedeck v. Unocal Corporation.**

The judgment is affirmed. Kline, P.J. We concur: Haerle, J., Ruvolo, J.  
(Certified for Publication.)

**A075649--Alfred Watts v. Oakland Civil Service Board et al.**

The Court: It is ordered that the opinion filed on November 6, 1997 be  
certified for publication. Kline, P.J.

**A078994--Andrew Morrow v. Hood Communications, Inc. et al.**

Under the principles of *stare decisis* set forth in *Auto Equity Sales v. Superior Court* (1962) 57 Cal.2d 450, we feel bound by *Neary* and, accordingly, grant the motion.

We do not, however, believe that the principles set forth in *Auto Equity* prevent us from respectfully stating our agreement with the fundamental principles set forth by Presiding Justice Kline in his dissent (other than those pertaining to the power of an inferior court to refuse to acquiesce in precedent established by a court of superior jurisdiction) and in his opinion in *Norman, I. Krug Real Estate Investments, Inc. v. Praszker* (1994) 22 Cal. App. 4th 1814, 1825 (conc. opn. of Kline, P.J.). We also agree with Presiding Justice Kline that this case provides an appropriate vehicle through which the Supreme Court should reconsider and repudiate the doctrine adopted in *Neary*. Lambden, J. I concur: Ruvolo, J. See dissenting opinion of Kline, P.J. (Certified for Publication.)

Tuesday, December 2, 1997 (continued)

DIVISION THREE

**A078410--In re Daniel A., a Person Coming Under the Juvenile Court Law.**

Consequently, the judgment is affirmed. Parrilli, J. We concur: Phelan, P.J., Corrigan, J. (Not for Publication.)

DIVISION FOUR

**A077815--James K. Ho v. State Board of Equalization.**

The judgment is affirmed. Hanlon, P.J. We concur: Pochè, J., Reardon, J. (Not for Publication.)

DIVISION FIVE

**A074387--The People v. Joe Evins.**

The judgment is affirmed. Haning, J. We concur: Peterson, P.J., Jones, J. (Not for Publication.)

**A075476--The People v. Keith S. Hitchings.**

The judgment is affirmed. Jones, J. We concur: Peterson, P.J., Haning, J. (Certified for Partial Publication.)

MINUTES

COURT OF APPEAL  
STATE OF CALIFORNIA  
FIRST APPELLATE DISTRICT

Wednesday, December 3, 1997

DIVISION ONE

**A078300--The People v. Rudy Lewis Brown.**

The judgment is affirmed. Swager, J. We concur: Strankman, P.J.,  
Dossee, J. (Not for Publication.)

**A078408--In re Deverick L., a Person Coming Under the Juvenile Court  
Law.**

The enhancements imposed pursuant to section 12022.3 are vacated, and  
the matter is remanded to trial court with directions to impose an enhancement,  
pursuant to section 12022(b), and recalculate the maximum term in accordance  
with the views expressed in this opinion. Stein, J. We concur: Strankman, P.J.,  
Dossee, J. (Not for Publication.)

DIVISION TWO

**A080603--Michael James Flores v. The Superior Court of San Mateo  
County, The People of the State of California, R.P.I.**

By The Court: The petition for writ of prohibition/stay is denied. Haerle,  
Acting P.J.

Wednesday, December 3, 1997 (continued)

DIVISION FOUR

**A076631--California Court Reporters Association, Inc., et al. v. Judicial Council of California et al.**

The judgment is affirmed and the cross-appeal is dismissed as moot.  
Reardon, J. We concur: Hanlon, P.J., Pochè, J. (Certified for Publication.)

**A078271--In re Raymond F., a Person Coming Under the Juvenile Court Law.**

The judgment is affirmed. McGuiness, J. We concur: Hanlon, P.J., Pochè, J.

DIVISION FIVE

**A078059--The People v. Alice Elgenia Gage.**

Accordingly, we hold that Gage's sentence shall include the additional \$1,000 restitution fine indicated in the abstract of judgment.

There are no arguable issues. The judgment is affirmed as modified herein.  
Jones, J. We concur: Peterson, P.J., Haning, J. (Not for Publication.)

MINUTES

COURT OF APPEAL  
STATE OF CALIFORNIA  
FIRST APPELLATE DISTRICT

Thursday, December 4, 1997

DIVISION FIVE

**A076763--The People v. Robert Franklin Stover.**

We affirm the judgment. Jones, J. We concur: Peterson, P.J., Haning, J.  
(Not for Publication.)

**A078407--In re Ricardo E., a Minor.**

By The Court: The parties to this appeal have agreed that the juvenile court lacked authority to impose a commitment to the California Youth Authority (CYA) which would exceed the term of 15 years stated in the parties' plea bargain. This matter is hereby remanded to the juvenile court with instructions to correct the commitment order to show a maximum commitment term of 15 years, and to forward the corrected commitment order to the CYA. Peterson, P.J.

MINUTES

COURT OF APPEAL  
STATE OF CALIFORNIA  
FIRST APPELLATE DISTRICT

Friday, December 5, 1997

DIVISION ONE

**A079895--The People v. Robert Fredrick Heller.**

By The Court: The appellate having filed an abandonment of appeal in this court, the appeal on file herein is ordered dismissed and the remittitur is to issue forthwith. Strankman, P.J.

DIVISION TWO

**A075474--The People v. Ollie Jerome Hall,  
A077187--In re Ollie Jerome Hall, on Habeas Corpus.**

The judgment is affirmed. The petition for writ of habeas corpus is denied. Ruvolo, J. We concur: Haerle, Acting P.J., Lambden, J. (Certified for Publication.)

**A075851--Alicia Dahlin v. El Torito Restaurants, Inc., et al.**

We reverse the judgment and remand to the trial court for further proceedings. Costs on appeal are awarded to appellant. Haerle, J. We concur: Kline, P.J., Lambden, J. (Not for Publication.)

**A077739--The People v. David Lawrence Kilgore.**

The judgment is affirmed. Lambden, J. We concur: Kline, P.J., Haerle, J. (Not for Publication.)



Friday, December 5, 1997 (continued)

**A078721--The People v. Anthony James Bailly.**

The judgment is affirmed. Lambden, J. We concur: Kline, P.J., Ruvolo, J.  
(Not for Publication.)

**A080846--Gina Lorin v. The Superior Court of San Mateo County,  
Helga Kitzmiller, et al., R.P.I.**

By The Court: The petition for writ of mandate/stay is denied. Haerle,  
Acting P.J.

**A080879--In re Craig Watkins, on Habeas Corpus.**

By The Court: The petition for writ of habeas corpus is denied without  
prejudice. The trial court's attention is directed to Penal Code sections 1375.5 and  
1203.1, subdivision (a). Haerle, Acting P.J.

DIVISION THREE

**A073758--Ellen Vickery et al. v. Cinema 7, Inc., et al.**

For all the foregoing reasons, the order disqualifying Lindley & Wood from  
representing defendants is affirmed. Respondents shall recover their costs and, as  
a sanction for filing and pursuing a frivolous appeal, reasonable attorney fees  
incurred in connection with this appeal (including the application for supersedeas),  
in an amount to be determined by the trial court on remand. Phelan, P.J. We  
concur: Corrigan, J., Walker, J. (Not for Publication.)

DIVISION FOUR

**A077051--Hillhaven Oakland Nursing & Rehabilitation Center et al. v.  
Faringis Davaran.**

The Court:\* The order is affirmed. \*Hanlon, P.J., Pochè, J. and Reardon,  
J. (Not for Publication.)

MINUTES

COURT OF APPEAL  
STATE OF CALIFORNIA  
FIRST APPELLATE DISTRICT

Monday, December 8, 1997

DIVISION ONE

**A077938--In re Brian B., a Person Coming Under the Juvenile Court Law.**

The judgment is affirmed. Stein, J. We concur: Strankman, P.J., Dossee, J. (Not for Publication.)

DIVISION TWO

**A074951--In re the Marriage of DeAnn Keefe and Terence A. Keefe.**

The appeal is dismissed. Upon a motion being filed by respondent, the trial court shall award respondent appropriate attorney fees under Family Code section 271 in accordance with the views expressed herein. Respondent shall also receive costs on appeal. Kline, P.J. We concur: Haerle, J., Lambden, J. (Not for Publication.)

**A075859--Gilbert Kucera et al. v. Tiberio Lizza.**

The judgment is reversed, and the matter is remanded for further proceedings consistent with the views expressed in this opinion. Lambden, J. We concur: Kline, P.J., Ruvolo, J. (Certified for Publication.)

Monday, December 8, 1997

DIVISION THREE

**A069453--In re Gary S., a Person Coming Under the Juvenile Court**

**Law.**

The judgment is affirmed. Corrigan, J. We concur: Phelan, P.J., Parrilli, J. (Not for Publication.)

**A073596--Cynthia Jill Ford et al. v. Pacific Gas and Electric Company.**

The judgment is affirmed. Corrigan, J. We concur: Phelan, P.J., Parrilli, J. (Not for Publication.)

**A074833--In re John B., a Person Coming Under the Juvenile Court**

**Law.**

Because we cannot say the juvenile court's placement order was "arbitrary, capricious, or patently absurd" (see *In re Stephanie M.*, *supra*, 7 Cal.4th at p. 318), we affirm. Phelan, P.J. We concur: Corrigan, J., Parrilli, J. (Not for Publication.)

**A074511--Norman Cromartie v. Commission on Professional Competence, San Francisco Unified School District, R.P.I.**

We therefore reverse and remand with instructions to the trial court to overrule the demurrer. Costs to appellant. Phelan, P.J. We concur: Parrilli, J., Walker, J. (Not for Publication.)

**A076767--The People v. Andres Villa Flores.**

The judgment is affirmed. Walker, J. We concur: Phelan, P.J., Parrilli, J. (Not for Publication.)

**A079535--Marc C. v. The Superior Court of The City and County of San Francisco, San Francisco Department of Human Services, R.P.I.**

The petition for extraordinary relief is denied on the merits. (See Cal. Const., art. VI, § 14; *Kowis v. Howard* (1992) 3 Cal.4th 888, 894; *Bay Development, Ltd., v. Superior Court* (1990) 50 Cal.3d 1012, 1024.) Our decision is final in this court immediately. Parrilli, J. We concur: Phelan, P.J., Corrigan, J. (Not for Publication.)

Monday, December 8, 1997

DIVISION FIVE

**A068978--The People v. Cruz Alberto Mendoza, Raul Valle.**

The judgments of conviction are affirmed. Peterson, P.J. I concur: Jones, J. See dissenting opinion of Haning, J. (Certified for Partial Publication.)

**A075545--The People v. Clinton R. Green.**

The judgment and sentence are affirmed. Jones, J. We concur: Peterson, P.J., Haning, J. (Not for Publication.)

**A076801--Keet Nerhan v. Shell Oil Company et al.**

We affirm. Jones, J. We concur: Peterson, P.J., Haning, J. (Not for Publication.)

**A076878--In re the Marriage of Richard K. and Michelle R. Varrasso.**

We affirm the trial court's orders except its imposition of a \$2,000 sanction based on Code of Civil Procedure sections 128.5 and 1008. As to that \$2,000 sanction, we remand this action to the superior court to enter a new order in accordance with Code of Civil Procedure section 128.5, subdivision (c) or, in the alternative, to vacate the imposition of sanctions. (*Childs v. Paine Webber Incorporated, supra*, 29 Cal.App.4th at p.997.) We express no opinion as to which of these choices would be proper in this case. That determination should be made in the first instance by the trial court. Each side to bear their own costs on appeal. Jones, J. We concur: Peterson, P.J., Haning, J. (Not for Publication.)

CALIFORNIA COURT OF APPEAL  
FIRST APPELLATE DISTRICT  
DIVISION ONE  
Monday, December 8, 1997

Court convened at 9:00 a.m. in its Courtroom, at Marathon Plaza,  
303 Second Street, 4th Floor, San Francisco, California  
Present: Strankman,, P.J., Stein, J. and Dossee, J.  
N. Millner, Deputy Clerk

- A075849 Jimmy Hom, et al.,  
v.  
Regents of the University of California, et al.  
Cause called and argued by Arlo Smith for appellants and Mark  
Himmelstein and Fred Takemiya for respondents. Cause  
ordered submitted.
- A077729 Necole Velasquez,  
v.  
City and County of San Francisco.  
Cause called and argued by Adam Gruen for appellant and Donald  
Margolis, Deputy City Attorney for respondent. Cause  
ordered submitted.
- A076644 Matthew Strauss, et al.,  
v.  
First American Title Guaranty Company.  
Cause called and argued by Thomas Curran for appellant and  
Michael Hassen for respondent. Cause ordered submitted.
- A076002 Lenora Titus,  
v.  
Drake Builders, Inc., et al.  
Cause called and argued by Robert Cramer for appellant and Steven  
Toschi for respondent. Cause ordered submitted.

A077950     Anthony Johnson,  
                 v.  
                 Bay Area Rapid Transit.  
Cause called and argued by Anthony Johnson, in pro per as appellant  
and Brenda Aguilar-Guerrero for respondent. Cause  
ordered submitted.

A07821     Anita L. Crockett,  
                 v.  
                 Cupertino National Bank and Trust.  
Cause called and argued by Robert Brower for appellant and Stephen  
Kottmeier for respondent. Cause ordered submitted.

Court recessed until 2:00 p.m.

CALIFORNIA COURT OF APPEAL  
FIRST APPELLATE DISTRICT  
DIVISION ONE  
Monday, December 8, 1997

Court convened at 2:00 p.m. in its Courtroom, at Marathon Plaza,  
303 Second Street, 4th Floor, San Francisco, California  
Present: Strankman, P.J., Stein, J. and Swager, J.  
J. Bagoye, Deputy Clerk

A074865 Viking Credit Corporation,  
v.  
Fred Labankoff, et al.  
Cause called and argued by Fred Labankoff, in pro per as appellant  
and Clay Christiansen for respondent. Cause ordered  
submitted.

At this point, Justice Dossee leaves the bench and is replaced by  
Justice Swager for the remainder of the calendar.

A076350 Mehta Burkett & Company, Inc.  
v.  
William C. Burkett.  
Cause called and argued by Elliot Bien for appellant and Gilmur  
Murray for respondent. Cause ordered submitted.

A077558 Richard Canatella,  
v.  
United Services Automobile Association.  
Cause called and argued by Richard Canatella, in pro per as  
appellant and Terry Anastassiou for respondent. Cause ordered  
submitted.

A076253 Nabil Athanassious,  
v.  
State of California.  
Cause called and argued by Carlos Alcala for appellant and James  
Thompson for respondent. Cause ordered submitted.

A076540     People,  
                 v.  
                 Michael Probst.  
                 Cause called and argued by Michael Probst as appellant in pro per  
                 and Christopher Grove, Deputy Attorney General for respondent.  
                 Cause ordered submitted.

A074547     People,  
                 v.  
                 Joshua Price-Mahdi.  
                 Cause called and argued by Victor Morse for appellant and Mark  
                 Howell, Deputy Attorney General for respondent. Cause ordered  
                 submitted.

Court recessed until Wednesday, December 10, 1997 at 9:00 a.m.



MINUTES

COURT OF APPEAL  
STATE OF CALIFORNIA  
FIRST APPELLATE DISTRICT

Tuesday, December 9, 1997

DIVISION ONE

**A076671--In re Emil J. Ekdahl, on Habeas Corpus.**

Order Modifying Opinion and Denying Rehearing; The Court: It is ordered that the opinion filed herein on November 13, 1997, be modified as follows: (See Order) The petition for rehearing is denied. There is no change in the judgment. Strankman, P.J.

DIVISION TWO

**A075927--Patrick and Penny Baldwin v. Home Savings of America, et al.**

For the foregoing reasons, the August 12, 1996 order vacating that portion of the judgment awarding appellants attorney fees is reversed. Appellants shall be awarded costs on appeal. Kline, P.J. We concur: Haerle, J., Ruvolo, J. (Certified for Publication.)

**A076388--The People v. David Christopher Smith.**

The judgment is affirmed. Kline, P.J. We concur: Haerle, J., Ruvolo, J. (Not for Publication.)

**A079143 & A079223--The People v. Dale Howard Williams.**

The judgments are affirmed. Haerle, J. We concur: Lambden, J., Ruvolo, J. (Certified for Publication.)

MINUTES

COURT OF APPEAL  
STATE OF CALIFORNIA  
FIRST APPELLATE DISTRICT  
DIVISION THREE  
TUESDAY, DECEMBER 9, 1997

Court convened at 9:00 a.m. in its courtroom at Marathon Plaza,  
South Tower Fourth Floor, 303 Second Street, San Francisco, Ca.  
Present: Phelan P.J., Corrigan J., Parrilli J., and J. Casados, Deputy  
Clerk.

- A074344      FRANKLIN D. CARROLL,  
                         v.  
                         FIRST INTERSTATE BANK, ET AL.  
Cause called and argued by Elise Balgley counsel for appellant  
and by Cynthia J. Griffith counsel for respondents. Cause argued  
and submitted.
- A075550      THE PEOPLE,  
                         v.  
                         KENNETH JAMES SMITH.  
Cause called and argued by Brian Hong counsel for appellant  
and by Allan Yannow, Deputy Attorney General, counsel for  
respondent. Cause argued and submitted.
- A076275      GAVRIL GROSS ET AL.  
                         v.  
                         KEN SOKOLIK ET AL.  
Cause called and argued by Merrill Emerick counsel for appellants  
and by Cynthia J. Griffith counsel for respondents. Cause argued  
and submitted.

Justice Parrilli left the bench and Justice Walker took his place on the bench.

- A073361 JORDAN, LAWRENCE & MARTIN,  
v.  
W. WONG CONSTRUCTION, ETC., ET AL.  
Cause called and argued by David J. Cook and Robert J. Perkiss counsel for appellant and by Mattaniah Eytan and Andrea Widburg counsel for respondents. Cause argued and submitted.
- A074816 ALICE CHING ET AL.,  
v.  
HARSCH INVESTMENT CORPORATION.  
Cause called and argued by Richard R. Dale counsel for appellant and by Gen Fujioka counsel for respondent. Cause argued and submitted.
- A076673 THE PEOPLE,  
v.  
CARL LEE BREAUX.  
Cause called and argued by Karen Balacek counsel for appellant and by Raymond Cardoza, Deputy Attorney General, counsel for respondent. Cause argued and submitted.

Court recessed until 1:30 p.m.

MINUTES

COURT OF APPEAL  
STATE OF CALIFORNIA  
FIRST APPELLATE DISTRICT  
DIVISION THREE  
TUESDAY, DECEMBER 9, 1997

Court convened at 1:30 p.m. in its courtroom at Marathon Plaza,  
South Tower Fourth Floor, 303 Second Street, San Francisco, Ca.  
Present: Phelan P.J., Corrigan J., Parrilli J., Walker, J. and  
J. Casados, Deputy Clerk.

Justice Phelan did not participate in this first matter to be argued.

A076798      ZURICH INSURANCE COMPANY,  
                 v.  
                 THE HERTZ CORPORATION.  
Cause called and argued by Kim Collins counsel for appellant and  
by  
Chris Lavdiotis counsel for respondent. Cause argued and  
submitted.

Justice Corrigan did not participate in this next matter to be argued.

A077862      IN RE THE MARRIAGE OF REINER  
                 MAUREEN T. REINER,  
                 v.  
                 RALPH E. REINER.  
Cause called and argued by Kelly Walsh counsel for appellant and  
by John Davis counsel for respondent. Counsel argued this case by  
telephone conference. Cause argued and submitted.

Justice Walker left the bench.

A078530 CHUCK QUACKENBUSH ET AL.

v.

SUPERIOR COURT OF SAN FRANCISCO COUNTY;  
CONGRESS OF CALIFORNIA SENIORS ET AL.

Cause called and argued by Leslie Lopez counsel for petitioners and  
Jon B. Eisenberg on behalf of petitioners and by Robin Johansen  
counsel for real parties in interest. Cause argued and submitted.

Court adjourned.

MINUTES

COURT OF APPEAL  
STATE OF CALIFORNIA  
FIRST APPELLATE DISTRICT

Wednesday, December 10, 1997

DIVISION ONE

**A076853--The People v. Lanny Wayne Poindexter, Sr.**

The judgment is affirmed. Swager, J. We concur: Stein, Acting P.J., Dossee, J. (Not for Publication.)

**A079994--Mary G. v. Superior Court of Del Norte County, Del Norte County Department of Social Services, R.P.I.**

**A079995--John G. v. Superior Court of Del Norte County, Del Norte County Department of Social Services, R.P.I.**

The request for stay of the section 366.26 hearing, which is set for December 19, 1997, is denied, and this opinion is final as to this court immediately. Stein, J. We concur: Strankman, P.J., Swager, J. (Not for Publication.)

DIVISION TWO

**A071710, A072935--Apollo Limited Partnership v. Apollo Housing Partnership, Ltd. et al.**

The judgment is affirmed. Kline, P.J. We concur: Haerle, J., Ruvolo, J. (Not for Publication.)

Wednesday, December 10, 1997 (continued)

**A076302--Lisa L. Gygax v. Sonoma County Water Agency et al.**

The judgment is affirmed. Ruvolo, J. We concur: Haerle, Acting P.J., Lambden, J. (Not for Publication.)

**A077028--The People v. David Bruce Grecu.**

The judgment is affirmed. Kline, P.J. We concur: Haerle, J., Lambden, J. (Not for Publication.)

DIVISION THREE

**A074862--The People v. Willie C. Anderson.**

Affirmed. Walker, J. We concur: Phelan, P.J., Corrigan, J. (Not for Publication.)

**A076663--Hoag Memorial Hospital Presbyterian v. Kimberle Belshe, as Director, etc.**

The judgment is reversed. The trial court is directed to issue a writ of mandate requiring the Department to (1) refund to the Hospital the interest paid in connection with the 1986 overpayment, and (2) calculate and pay the Hospital interest on all refunds of the overpayments recouped for fiscal years 1986, 1987, and 1988, as required by sections 14171, subdivision (g) and 14172.5, subdivision (b), and by section 51047, subdivision (e) of the Medi-Cal regulations. The Hospital shall recover its costs on appeal. Parrilli, J. We concur: Corrigan, Actg. P.J., Walker, J. (Not for Publication.)

**A078481--First Presbyterian Church of Berkeley v. City of Berkeley et al.**

The judgment is reversed with respect to the 2d, 10th, 12th and 13th causes of action insofar as it holds the City is barred by the Ellis Act from exercising discretionary review of the Church's application for a demolition permit under the LPO and CEQA with respect to the historic or aesthetic value of the subject Building and Property, without any regard to considerations as to future construction of residential units on the Property, the habitability of the Building sought to be demolished, or the provision and maintenance of rental housing in the City. In all other respects, the judgment is affirmed.

Each party shall bear its own costs on appeal. Walker, J. We concur: Phelan, P.J., Parrilli, J. (Certified for Publication.)

Wednesday, December 10, 1997 (continued)

DIVISION FOUR

**A075571--The People v. Nathaniel McCoy.**

The judgment is affirmed. Saldamando, J.\* We concur: Hanlon, P.J., Poché, J.

\*Judge of the San Francisco Superior Court, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution. (Not for Publication.)

DIVISION FIVE

**A075325--Vern Weber v. Titchell, Maltzman, Mark, Bass, Ohleyer & Mishel et al.**

The judgment is affirmed. Costs to respondents. Haning, J. We concur: Peterson, P.J., Jones, J. (Not for Publication.)

**A075669--The People v. Deshama E. Lankford-Byrd et al.**

Seales's sentence is modified by striking the one-year term for the furnishing enhancement. The judgments are otherwise affirmed. The trial court shall prepare and forward to the Department of Corrections an amended abstract of judgment for Seales. Haning, J. We concur: Peterson, P.J., Jones, J. (Not for Publication.)



CALIFORNIA COURT OF APPEAL  
FIRST APPELLATE DISTRICT  
DIVISION ONE

Wednesday, December 10, 1997

Court convened at 9:00 a.m. in its Courtroom, at Marathon Plaza,  
303 Second Street, 4th Floor, San Francisco, California

Present: Strankman, P.J., Dossee, J. and Swager, J.  
J. Bagoye, Deputy Clerk

- A075886 In re Anthony Webb on Habeas Corpus.  
A079429 People,  
v.  
Anthony Webb.  
Cause called and argued by Nina Rivkind for appellant and Eric  
Share, Deputy Attorney General for respondent. Cause ordered  
submitted.
- A076772 George Mohun, et al.,  
v.  
Harold Elbright, Jr., et al.  
Cause called and argued by George Mohun, in pro per as appellant  
and Joshua Thomas for respondent. Cause ordered submitted.
- A077827 Fire Insurance Exchange,  
v.  
Robert Proffit, et al.  
Cause called and argued by Stephen Tamchin for appellant and John  
Tormey for respondent. Cause ordered submitted.
- A077901 Gregory Nevins,  
v.  
Oakland Raiders, et al.  
Cause called and argued by Donald McIssac for appellants and  
William Herbert for respondent. Cause ordered submitted.
- A077860 County of Humboldt,  
v.  
Lawrence Neeley, et al.  
Cause called and argued by Christopher Metzger for appellant and  
Elaine Profant-Turner for respondent. Cause ordered submitted.

A076967      County of Alameda,  
v.  
Stephen E. Fay.  
Cause called and argued by Thomas Knutsen for appellant and  
Marth Roth, Deputy Attorney General for respondent. Cause  
ordered submitted.

Court recessed until 2:00 p.m.

CALIFORNIA COURT OF APPEAL  
FIRST APPELLATE DISTRICT  
DIVISION ONE

Wednesday, December 10, 1997

Court convened at 2:00 p.m. in its Courtroom, at Marathon Plaza,  
303 Second Street, 4th Floor, San Francisco, California

Present: Strankman, P.J., Dossee, J. and Swager, J.  
J. Bagoye, Deputy Clerk

- A075356     Dr. Sheldon Brown, et al.,  
A075424     v.  
              Centennial Bank, et al.  
              Cause called and argued by Bennett Sigmond for appellant and  
              Jonathan Bass for respondent. Cause ordered submitted.
- A077421     Citizens for Open Access to Sand and Tide,  
              v.  
              Seadrift Association, et al.  
              Cause called and argued by Dotty LeMieux for appellants and Edgar  
              Washburn for respondent. Cause ordered submitted.
- At this point, Justice Strankman leaves the bench and Justice Dossee  
              is the Acting Presiding Justice. Counsel for the parties in the  
              remaining cases stipulate to participate in oral argument in Justice  
              Stein's absence.
- A074854     People,  
              v.  
              Victor Gillispie.  
              Cause called and argued by Thomas Schaaf for appellant and Mia  
              Mazza, Deputy Attorney General for respondent. Cause ordered  
              submitted.
- A077934     In re Sierra B., Minor.  
              Social Services Agency,  
              v.  
              Colleen B.  
              Cause called and argued by Julie TenEyck for appellant and Janice  
              Amenta, Deputy County Counsel for respondent. Cause ordered  
              submitted.

Oral argument having been deemed waived, the following cases are ordered submitted:

A075417	In re Maria S., Minor.
A079994	Mary G. v. Superior Court
A079995	John G. v. Superior Court
A076853	People v. Poindexter
A076398	People v. Stroman
A078053	People v. Frazier

Court Adjourned

MINUTES

COURT OF APPEAL  
STATE OF CALIFORNIA  
FIRST APPELLATE DISTRICT

Thursday, December 11, 1997

DIVISION TWO

**A076039--Dorothy Sprey v. Vidal Properties, et al.**

The judgment is affirmed. Haerle, Acting P.J. We concur: Lambden, J., Ruvolo, J. (Not for Publication.)

DIVISION THREE

**A070937--Thomas F. McCloskey et al. v. Michigan Millers Mutual Insurance Company.**

The judgment is affirmed. Corrigan, J. We concur: Phelan, P.J., Parrilli, J. (Not for Publication.)

**A077690--The People v. Gerald B. Smith.**

The judgment is affirmed. Corrigan, J. We concur: Phelan, P.J., Parrilli, J. (Not for Publication.)

**A077862--In re the Marriage of Maureen T. and Ralph E. Reiner.**

The order denying the motion to terminate or modify support is affirmed. Walker, J. We concur: Phelan, P.J., Parrilli, J. (Not for Publication.)

Thursday, December 11, 1997 (continued)

DIVISION FIVE

**A076469--In re Arron C., a Minor.**

The disposition is affirmed. Peterson, P.J. I concur: Haning, J. See concurring and dissenting opinion of Justice Barbara J. R. Jones. (Certified for Publication.)

**A077153--Christopher E. Grell, Individually and as Executor, etc. v. Laci Le Beau Corporation, et al.**

The judgment is affirmed. Haning, J. We concur: Peterson, P.J., Jones, J. (Not for Publication.)

## MINUTES

### CALIFORNIA COURT OF APPEAL FIRST APPELLATE DISTRICT DIVISION TWO

Thursday, December 11, 1997

Court met at 9:00 a.m. in its courtroom at 303 - 2nd Street,  
Fourth Floor, San Francisco. Present: Kline, P. J., Haerle, J.,  
Lambden, J., Ruvolo, J., and S. Graham, Deputy Clerk.

- A074019 People  
v.  
Klee Christopher Orthel
- A079316 In re Klee Christopher Orthel, on Habeas Corpus  
Cause called and argued by Mark D. Greenberg, counsel for  
appellant and  
Jeffrey Laurence, Deputy Attorney General, counsel for respondent.  
Causes ordered submitted.
- A075210 People  
v.  
Carlos V., a Minor
- A075119 People  
v.  
Jesus T., a Minor  
Cause called and argued by Thomas Schaaf, counsel for appellant  
Carlos V., Joan Wolff, counsel for appellant Jesus T. and Greg  
Zwicke, Deputy Attorney General, counsel for respondent. Causes  
ordered submitted.
- A074725 People  
v.  
Guadalupe V. Torres  
Cause called and argued by J. Bradley O'Connell, counsel for  
appellant and  
Thomas Brady, Deputy Attorney General, counsel for respondent.  
Cause ordered submitted.

- A077079      Nagi Homran  
v.  
City of Berkeley, et al.  
Cause called and argued by Thomas Curran, counsel for appellant and Christine Daniel, Deputy City Attorney, counsel for respondent. Counsel for respondent granted 5 days in which to file a supplemental letter; counsel for appellant granted 5 days thereafter to respond. Cause will be deemed submitted upon the filing of the response.
- A076844      Paul M. Resnick, et al.  
v.  
Franchise Tax Board  
Cause called and argued by Kenneth Bley, counsel for appellant and Marguerite Stricklin, counsel for respondent. Cause ordered submitted.
- A077505      Kristie E. Hughes  
v.  
Boren Huang  
Cause called and argued (telephonically) by John Murphy, counsel for appellant and Mark Epstein, counsel for respondent. Cause ordered submitted.

Court recessed until 1:30 p.m.



## MINUTES

### CALIFORNIA COURT OF APPEAL FIRST APPELLATE DISTRICT DIVISION TWO

Thursday, December 11, 1997

Court reconvened at 1:30 p.m. in its courtroom at 303 Second Street, South Tower, Fourth Floor, San Francisco, California. Present: Kline, P.J., Haerle, J., Ruvolo, J., and I. Cespedes, Deputy Clerk.

- A077068     James D. Porsche et al.,  
                 v.  
                 Hardin Mortgage & Investments, Inc., et al.  
                 Cause called and argued by Marvin Pederson, counsel for appellant, and  
                 Thomas P. Kelly, counsel for respondent. Cause ordered submitted.
- A074986     The People,  
                 v.  
                 James R. Metters.  
                 Cause called and argued (telephonically) by John Ward, counsel for  
                 appellant, and John Vance, Deputy Attorney General, counsel for  
                 respondent. Cause ordered submitted.
- A076699     Sandra Smith et al.,  
                 v.  
                 Craig Kocian et al.  
                 Cause called and argued by Evelio Grillo, counsel for appellant, and Sylvia  
                 Courtney, counsel for respondent. Submission deferred. Counsel for  
                 appellant granted 10 days to submit a letter brief. Case will be deemed  
                 submitted upon the filing of letter brief.
- A075493     Allyn Beth Landau, M.D.  
                 v.  
                 Medical Board of California.
- A075251     Allyn Beth Landau,  
                 v.  
                 The Superior Court, San Francisco County.  
                 Medical Board of California, RPI.  
                 Cause called and argued by Tony Tanke, counsel for appellant, and

Alfredo Terrazas, counsel for respondent. Cause ordered submitted.

Court adjourned.

MINUTES

COURT OF APPEAL  
STATE OF CALIFORNIA  
FIRST APPELLATE DISTRICT

Friday, December 12, 1997

DIVISION ONE

**A074547--The People v. Joshua Price-Mahdi.**

The judgment is affirmed. Stein, J. We concur: Strankman, P.J., Swager, J. (Not for Publication.)

**A076644--Matthew C. Strauss et al. v. Linda M. Morn et al.**

The judgment is affirmed. First American's request for sanctions is denied. Stein, J. We concur: Strankman, P.J., Dossee, J. (Not for Publication.)

DIVISION TWO

**A076717--Dwight Livingstone Schwab v. Department of Motor Vehicles.**

The judgment is affirmed. Haerle, J. We concur: Kline, P.J., Ruvolo, J. (Not for Publication.)

Friday, December 12, 1997 (continued)

**A076902--In re Geraldine L., et al., Persons Coming Under the Juvenile Court Law.**

The orders are affirmed. Kline, P.J. We concur: Lambden, J., Ruvolo, J. (Not for Publication.)

**A076963--Barbara Piasecki v. City and County of San Francisco.**

We affirm the judgment and Piasecki is to pay costs. Lambden, J. We concur: Kline, P.J., Haerle, J. (Not for Publication.)

**A077033--The People v. Matthew Vincent Chechourka.**

The judgment is affirmed. Ruvolo, J. We concur: Kline, P.J., Haerle, J. (Not for Publication.)

**A077305--The People v. Adam White.**

The judgment is affirmed. Ruvolo, J. We concur: Kline, P.J., Lambden, J. (Not for Publication.)

**A077745--In re Matthew E., a Person Coming Under the Juvenile Court Law.**

The orders declaring Matthew E. a ward of the court and committing him to the California Youth Authority are affirmed. Ruvolo, J. We concur: Kline, P.J., Haerle, J. (Not for Publication.)

**A080686--John Crosthwaite v. The Superior Court of Alameda County, The People of the State of California, R.P.I.**

By The Court: The petition for writ of mandate/prohibition is denied. Haerle, Acting P.J.

**A080894--In re Andre Danel Simmons, on Habeas Corpus.**

By The Court: The petition for writ of habeas corpus is denied. Haerle, Acting P.J.

Friday, December 12, 1997 (continued)

**A080903--In re Robin Dasenbrock, on Habeas Corpus.**

By The Court: The petition for writ of habeas corpus is denied. Haerle, Acting P.J.

**A080932--In re Wilbur H. Smith, on Habeas Corpus.**

By The Court: The petition for writ of habeas corpus is denied. Haerle, Acting P.J.

DIVISION THREE

**A072648--The People of the State of California v. Sohrab, Hooshang.**

By The Court: The petition for rehearing is denied. Phelan, P.J.

**A073789--City and County of San Francisco v. Alice R. Lane.**

The appeal is dismissed in its entirety. Respondent to recover costs on appeal. Walker, J. We concur: Phelan, P.J., Corrigan, J. (Not for Publication.)

**A076821--The People v. Englebert Perlas.**

The judgment is affirmed. Phelan, P.J. We concur: Corrigan, J., Parrilli, J. (Not for Publication.)

**A077625--The People v. Donna Jean Sabeau.**

Accordingly, we conclude the trial court's stated reasons for choosing to deny probation are supported by facts in the record, are fully consistent with the guidelines set forth in rule 414, California Rules of Court, and that the result would not change if remand were ordered.

For the forgoing reasons the judgment is affirmed. Phelan, P.J. We concur: Corrigan, J., Parrilli, J. (Not for Publication.)

Friday, December 12, 1997 (continued)

**A077907--Linda lee, et al. v. California Casualty Insurance Company.**

The judgment is affirmed. California Casualty shall recover its costs on appeal. Parrilli, J. We concur: Phelan, P.J., Walker, J. (Not for Publication.)

DIVISION FOUR

**A076184--The People v. Ruben Williams.**

The judgment is affirmed. Hanlon, P.J. We concur: Poché, J., Reardon, J. (Not for Publication.)

**A078037--The People v. John Anthony Gutierrez.**

The judgment is affirmed. Hanlon, P.J. We concur: Poché, J., Reardon, J. (Not for Publication.)

**A079399--Michael C. v. Marin County Superior Court, Marin County Department of Social Services, R.P.I.**

**A079400--Shoshana D. v. Marin County Superior Court, Marin County Department of Social Services, R.P.I.**

In cases A079399 and A079400, the orders terminating reunification services and setting a Selection and Implementation Hearing (§ 366.260) comply with the governing law and are supported by substantial evidence. The petitions for an extraordinary writ are each denied on the merits. (Cal. Const., art. VI, § 14; *Kowis v. Howard* (1992) 3 Cal.4th 888, 894; *Bay Development, Ltd. v. Superior Court* (1990) 50 Cal.3d 1012, 1024.) The stay previously issued in this matter is dissolved. Our decision is final in this court immediately. Hanlon, P.J. We concur: Poché, J., Reardon, J. (Not for Publication.)

Friday, December 12, 1997 (continued)

DIVISION FIVE

**A75003--Mission Housing Development Company, et al. v. City and County of San Francisco.**

By The Court: It is ordered that the opinion filed herein on November 12, 1997, be modified as follows: (See Order) The respective petitions for rehearing filed by appellants and respondent are denied. This order does not effect a change in the judgment. (Certified for Publication.)

**A077630--The People ex rel. Daniel E. Lungren, as Attorney General, etc. v. Dennis Peron et al.**

The order modifying the trial court's preliminary injunction issued November 4, 1996, is vacated. The preliminary injunction previously in effect prior to the modification is ordered reinstated. Peterson, P.J. I concur: Haning, J. See concurring opinion of Kline, P.J. (Certified for Publication.)

